

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 197 - SB 215**

March 25, 2019

**SUMMARY OF BILL:** Limits the prohibition of sentence reduction credits to persons convicted of Class A, B, or C felonies against a person. Authorizes such inmates to continue to earn sentence reduction credits, but specifies that such credits will not reduce the inmates' release eligibility dates (RED), but rather apply toward expiration of the inmates' sentence. Creates a presumption that an inmate convicted of a Class E or Class D nonviolent offense is to be released on parole upon the inmate reaching his or her release eligibility date, unless good cause is shown as to why the inmate should not be released.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$7,169,900 Incarceration\***

Assumptions:

- Tenn. Code Ann. §§ 40-35-105 to -109 establish sentencing classifications for felons. An inmate is sentenced as an especially mitigated offender, a standard offender (Range I), a multiple offender (Range II), a persistent offender (Range III), or a career offender.
- Tenn. Code Ann. § 40-35-501 establishes the release eligibility date (RED) for inmates sentenced to the Department of Correction (DOC) or to a local jail or workhouse.
- The classification determines the minimum percentage of the sentence that an inmate must serve. The percentages are as follows:

Classification	Percentage
Especially Mitigated	20% - 30%
Standard	30%
Multiple	35%
Persistent	45%
Career	60%

- These percentages can be reduced with sentence credits earned and retained by inmates while serving the sentence.
- The proposed legislation prohibits an inmate convicted of a Class A, B, or C felony against a person under Title 39, Chapter 13 from using sentence credits to reduce the time served below the percentages listed above.

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- Based on information provided by DOC, there has been an average of 11.67 releases for inmates that committed Class A, B, or C felony crime against a person each year over the last three years.
- Based on information provided by DOC, there has been an average of one Class A, B, or C felony crime against a person with a parole hearing prior to the RED in each year over the last three years; therefore, this analysis estimates 9 percent (1 / 11) of Class A, B, or C felony crimes against a person have hearing dates before RED.
- Based on information provided by DOC, there has been an average of 7,728 Class A, B, and C felony admissions each year over the last three years.
- This analysis estimates that the proposed legislation will result in 9 percent, or 696 (7,728 x 9%), of such offenders not having a hearing date prior to RED.
- Based on information provided by DOC, the average number of days gained between the hearing date and the RED by inmates that committed a Class A, B, or C felony against a person is 194.67 days each year over the last three years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.81 percent per year for each of the past 10 years (from 2008 to 2018), yielding a projected compound population growth rate of 8.37 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 58 (696 x 8.37%) additional admissions for a total of 754 (696 + 58).
- According to the DOC, 31.4 percent of offenders will re-offend within one year of their release. A recidivism discount of 31.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (754 offenders x 31.4% = 237 offenders).
- According to the DOC, the average operating cost per offender per day for calendar year 2019 is \$73.18.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 517 offenders (754 offenders – 237 recidivism discount) serving an additional 194.67 days at a cost of \$14,246 (\$73.18 x 194.67 days) per offender. The cost for 517 offenders is \$7,365,182 (\$14,246 x 517).
- Based on information provided by DOC, there has been an average of 390 discharges for nonviolent Class D and E felony offenses each year over the past five years, of which 361 were released after RED.
- This analysis estimates that one percent, or 4 (361 x 1%), inmates released after RED may not have good cause why they were not released.
- Based on information provided by DOC, the average number of days, the average number of days spent after RED by inmates that committed a Class D and E nonviolent felony crimes is 889.3.
- Population growth will not impact these admissions.
- According to the DOC, 31.4 percent of offenders will re-offend within one of their release. A recidivism discount of 31.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have

committed the subsequent offense at the same felony level as under current law (4 offenders x 31.4% = 1 offender).

- Creating a presumption that an inmate convicted of Class E or Class D nonviolent offense is to be released on parole upon the inmate reaching his or her release eligibility date unless good cause is shown as to why the inmate should not be released will result in a decrease in state incarceration expenditures estimated to be \$195,237 (\$73.18 x 889.3 x 3).
- The net fiscal impact of the proposed legislation is estimated to be \$7,169,945 (\$7,365,182 - \$195,237).
- The proposed legislation impacts neither the caseloads of the courts, public defenders, or district attorneys or the sentencing, nor the sentencing of felons.

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/amj